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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	No. 06-00195 RMW
)	
Plaintiff,)	
)	STIPULATION AND <input type="checkbox"/>
v.)	ORDER CONTINUING HEARING DATE
)	AND EXCLUDING TIME
PIERRE DINH,)	
)	
Defendant.)	SAN JOSE VENUE
)	

The parties are currently scheduled for a motions hearing on Monday, March 24, 2008 at 9:00 a.m. The government was recently informed by defense counsel Douglas Rappaport that he needs additional time to file his motion to dismiss the indictment due to the destruction of evidence. Therefore, the parties respectfully request that the motions hearing be vacated and rescheduled for Monday, May 12, 2008. This will allow defense counsel to file his motion by March 28, 2008 and afford the government an opportunity to respond by April 18, 2008. In addition, government counsel is unavailable the last two weeks in April because of family vacation. The parties also requested an exclusion of time under the Speedy Trial Act from March 24, 2008 to May 12, 2008 in order for defense counsel to prepare his motion. The parties agree

and stipulate that an exclusion of time is appropriate based on the defendant's need for effective preparation of counsel.

SO STIPULATED:

JOSEPH P. RUSSONIELLO
United States Attorney

DATED: 3/18/08

/s/
SUSAN KNIGHT
Assistant United States Attorney

DATED: 3/18/08

/s/
DOUGLAS L. RAPPAPORT
Counsel for Mr. Dinh

Accordingly, for good cause shown, the Court HEREBY ORDERS that the motions hearing scheduled for March 24, 2008 is vacated and rescheduled for May 12, 2008. The parties shall file their respective briefs in accordance with the schedule listed above.

The Court FURTHER ORDERS that time be excluded under the Speedy Trial Act from March 24, 2008 to May 12, 2008. The Court finds, based on the aforementioned reasons, that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant the requested continuance would deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

SO ORDERED. No further continuances. (rmw)

DATED: 3/25/08

Ronald M. Whyte
RONALD M. WHYTE
United States District Judge